

### **REMARKS**

This amendment is responsive to the Examiner's Answer of December 9, 2008. The Examiner's Answer contained a new ground of rejection. Applicant requests that prosecution be reopened before the primary examiner. Reconsideration and allowance of **claims 1-28** are requested.

#### **The Office Action**

**Claims 1, 9, and 25** were rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter.

**Claims 1-4, 6-15, 17-24, and 27-28** were rejected under 35 U.S.C. § 102(b) under Seliger et al. (U.S. Patent No. 5,546,580).

**Claims 5, 16, 25, and 26** were rejected under 25 U.S.C. § 103(a) over Seliger et al. in view of Applicant's admitted prior art.

#### **The Present Application**

The present application is directed to a method and a computer readable medium for merging two or more separate unique studies based upon context-specific content, and merging the two or more separate studies, each with a unique identifier, into a composite study containing artifacts of the two or more merged studies, with the composite study having a single unique identifier. The method and computer readable medium include merging a patient's first medical study with a logically related second medical study, such that medically context-specific information stored in at least one of the first and second medical studies is merged based upon a protocol of at least one of the first and second studies, the protocol being indicated by an attribute of at least one of the first and second studies. Additionally, a user interface is provided allowing a user to view all studies for a particular patient, select a study from the list, indicate which study the selected study is to be merged with, and then confirm the merging process. The merging of the studies is thereafter automatically performed.

The above description of the present application is presented to the Examiner as background information to assist the Examiner in understanding the application. The above description is not used to limit the claims in any way.

**The References of Record**

**Seliger et al.** discloses a method for coordinating updates to a medical database in a medical information system permits concurrent charting from different workstations and medical instruments. A first data value for a record is entered at a first workstation and a second data value for the same record is entered at a second workstation without locking either workstation during data entry. The new data values are stored in the medical database after completion of data entry at each workstation, and a correction history is recorded. The correction history contains information as to the update of the record with the first data value and the second data value. After the new data values are stored in the medical database, all workstations containing a copy of the record are updated to reflect the current state of the record.

**35 U.S.C. § 101**

**Claims 1, 9, and 25** have been amended and are now directed to statutory subject matter.

**The Claims Distinguish Patentably  
Over the References of Record**

**Claims 1-4, 6-15, 17-24 and 27-28** are not anticipated by Seliger et al. Applicant respectfully submits that this rejection is improper and/or erroneous. Accordingly the rejection is hereby traversed.

More specifically, regarding **claim 1**, Seliger et al. does not disclose identifying a patient's first collection of medical information, with a first collection identifier, and a logically related or similar second collection of medical information, with a second collection identifier. Seliger et al. discloses a user entering in new data values for updating a patient flowsheet. After the user is satisfied with the data entered, the user requests that the update be stored. In response to receiving the store request, a database event is created that includes a sequence number and the data to be updated. It is respectfully submitted that Seliger et al. does not disclose the step of identifying first and second collections of medical information assigned first and second identifiers before the step of merging the first and second collections of medical knowledge commences and that a collection of medical information is being merged rather than individual data values. Additionally, Seliger et al. does not

disclose reconciling the collection identifiers which are assigned before the step of merging the first and second collections of medical knowledge commences.

Accordingly it is submitted that **claim 1** and **claims 2-8 and 27** which depend therefrom distinguish patentably from the references of record.

Regarding **claim 9**, Seliger et al. does not disclose the steps of identifying a patient's first medical study, comprising a first study identifier, and a logically related or similar second medical study, comprising a second study identifier, creating a merged study from the merging of the first medical study with the second medical study, and assigning a unique study identifier to the merged study. Seliger et al. discloses the creation of a database event in a buffer or queue of the database server during the uploading process. The database event is assigned a sequence number and includes event information. Seliger et al. does not disclose identifying separate studies of a patient each assigned unique identifiers before the merging that are related or similar and merging the identified studies to create a merged study having a unique identifier. Additionally, Seliger et al. does not disclose the medical studies having identifiers before the request to merge the studies is received.

Accordingly it is submitted that **claim 9** and **claims 10-11** which depend therefrom distinguish patentably from the references of record.

Regarding **claim 12**, Seliger et al. does not disclose identifying a patient's first collection of medical information, with a first collection identifier, and a logically related or similar second collection of medical information, with a second collection identifier and reconciling collection identifiers of the first and second collections of medical information.

Accordingly it is submitted that **claim 12** and **claims 13-21 and 28** which depend therefrom distinguish patentably from the references of record.

Regarding **claim 22**, Seliger et al. does not disclose a patient's first medical study, which includes a first study identifier, and a logically related or similar second medical study, which includes a second study identifier or a merged study created from the merging of the first medical study with the second medical study or assigning a unique study identifier to the merged study.

Accordingly it is submitted that **claim 22** and **claims 23-24** which depend therefrom distinguish patentably from the references of record.

**Claims 5, 16, 25, and 26** are patentable over Seliger et al. in view of the Applicant's admitted prior art.

Regarding **claim 25**, Seliger et al. does not disclose identifying, in accordance with a lexicon of Digital Imaging and Communication in Medicine (DICOM), a patient's related first and second medical studies to be merged. Seliger et al. discloses updating data values such as heart rate or blood pressure on a patient flowsheet on a medical system database. Additionally, Seliger et al. discloses updating data values in a database by creating a database event, after the data is entered and requested to be stored, stored in a buffer or queue that includes a sequence number and data to be updated. Seliger et al. does not disclose identifying two medical studies which are to be merged by a lexicon of Digital Imaging and Communication in Medicine (DICOM). Seliger et al. also does not disclose that the studies are identified by a lexicon of DICOM before a request for merging is received. The Examiner's Answer asserts that storing a study according to a DICOM standard is well known in the art. The DICOM standard is a standard for handling, storing, printing, and transmitting information in medical imaging managed by NEMA (for example see <http://medical.nema.org/>). Seliger et al. is directed to updating patient parameters such as blood pressure and heart rate on a database stored in a medical system. Seliger et al. does not disclose or suggest medical imaging or studies containing information regarding medical imaging to be merged with related or similar studies of the same patient. The Examiner has provided no evidence or suggestion that it would have been obvious to one of ordinary skill to combine Seliger's method of updating patient parameters in a medical system database and storing studies according to a DICOM standard. The mere existence of a digital image standard does not provide any impetus to redesign a blood pressure and heart rate recording device into a digital image storage system. It is respectfully submitted that Seliger et al. and the existence of the DICOM standard do not disclose or fairly suggest identifying, in accordance with a lexicon of Digital Imaging and Communication in Medicine (DICOM), a patient's related first and second medical

studies to be merged and creating a resultant composite study from the merged first medical study and the second medical study.

Accordingly it is submitted that **claim 25** and **claim 26** which depends therefrom distinguish patentably from the references of record.

**Claim 5** calls for first and second collections of medical information including unique identifiers according to a lexicon of Digital Imaging and Communication in Medicine (DICOM). Neither Seliger et al. nor the DICOM standard disclose merging collection of medical information regarding medical images with similar or related collections of medical information.

Regarding **claim 16**, Seliger et al. does not disclose or suggest first and second collections of medical information include unique identifiers according to a lexicon of Digital Imaging and Communication in Medicine (DICOM).

**MPEP § 2144.03**

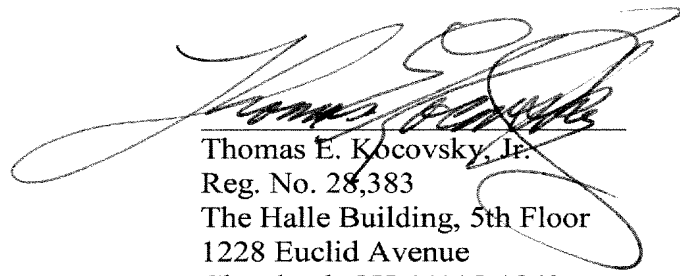
While the Applicant has conceded that the DICOM standard is known, the Applicant has not admitted any motivation or the like which would lead one to use the DICOM standard with Seliger et al. The Applicant traverses any teaching of this nature and puts the Examiner to his proofs pursuant to MPEP § 2144.03.

**CONCLUSION**

For the reasons set forth above, it is submitted that all claims are not anticipated by and distinguish patentably and unobviously over the references of record. An early allowance of all claims is requested.

Respectfully submitted,

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